# IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

LIBERTY WOODS INTERNATIONAL, INC., :

: Civil Action No.: 15-cv-8843-NLH/AMD

Plaintiff,

:

V.

:

\*

:

THE M/V OCEAN QUARTZ, her engines, tackle,: appurtenances, etc. in rem, and

DALIA SHIP HOLDING SA, in personam

Defendants.

## **DEFENDANTS' VERIFIED ANSWER TO COMPLAINT**

Defendant Dalia Ship Holding S.A. ("Dalia") appearing *in personam*, by and through their undersigned counsel, Palmer Biezup & Henderson LLP, and without waiver of or prejudice to the mandatory jurisdiction / forum selection contained in the applicable SK Shipping Company Ltd. Bills of Lading, answers Plaintiffs' Complaint as set forth below.

Dalia Ship Holding S.A. ("Dalia") having filed a Verified Statement of Right or Interest in the defendant vessel M/V OCEAN QUARTZ pursuant to Rules C(6) and E(8) of the Supplemental Rules for Certain Admiralty and Maritime Claims, as owner of the M/V OCEAN QUARTZ for the sole purpose of defending claims asserted in this action by the plaintiff against the M/V OCEAN QUARTZ *in rem*, said claim of owner and *in rem* appearance having been being expressly restricted under Rule E(8) and limited and subject to all terms, conditions, limitations, and reserved defenses set forth in a certain Letter of Undertaking issued on May 10, 2013<sup>1</sup> to the plaintiff as security for its *in rem* claim in lieu of the arrest of the vessel,

<sup>&</sup>lt;sup>1</sup> A true and correct copy of said Letter of Undertaking dated May 10, 2013 was attached to and made a part of the Verified Statement of Interest filed on February 1, 2016 as Exhibit "A". (See Doc. 3).

by and through its counsel, Palmer Biezup & Henderson LLP, and without waiver of or prejudice to the mandatory jurisdiction / forum selection clause contained in the applicable SK Shipping Company Ltd. Bills of Lading, answers plaintiff's Complaint *in rem* (herein after "Complaint") as claimant to the M/V OCEAN QUARTZ, as set forth below.

- 1. Denied. The averments contained in paragraph 1 of the Complaint relating to jurisdiction, rules and statutes that purportedly apply to Plaintiff's claim, and the characterization of Plaintiff's claims are conclusions of law and are, therefore, denied. All remaining averments contained in paragraph 1 of the Complaint are denied.
- 2. Denied. The averments contained in paragraph 2 of the Complaint relating to jurisdiction are conclusions of law and are, therefore, denied. All remaining averments contained in paragraph 2 of the Complaint are denied.
- 3. Denied. Answering Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 3 of the Complaint and, therefore, deny the same.
- 4. Denied as stated. It is admitted that at all material times the M/V OCEAN QUARTZ was an ocean going bulk cargo vessel and, except as specifically admitted herein, the averments contained in paragraph 4 of the Complaint are denied.
- 5. Denied as stated. It is admitted that at all material times Dalia Ship Holding S.A. was a foreign corporation or business entity and was the registered owner of the vessel M/V OCEAN QUARTZ and, except as specifically admitted herein, the averments contained in paragraph 5 of the Complaint are denied and the averments contained in "Schedule A" to the Complaint are denied.

- 6. Denied as stated. It is admitted that in the ports of Tanjung Manis, Malaysia, Bintalu, Malaysia and Samarinda, Indonesia certain cargoes of wood products inside crates were loaded and stowed aboard the M/V OCEAN QUARTZ by certain shippers and/or cargo interests for carriage to the Port of Camden, New Jersey and bill of lading numbers SKSMTMCA00211000 through SKSMTMCA00228000 dated December 12, 2012, bill of lading numbers SKSMBICA00615000 through SKSMBICA 00630000 dated December 17, 2012, and bill of lading numbers SKSMSMCA00109000 through SKSMSMCA00154000 dated December 31, 2012 were issued by SK Shipping Co., Ltd. in connection with said shipments of said cargoes and, except as specifically admitted herein, the averments contained in paragraph 6 of the Complaint are denied and the averments contained in "Schedule A" to the Complaint are denied.
  - 7. Denied.
- 8. Denied. Answering defendants are without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 8 of the Complaint and, therefore, deny the same.
  - 9. Denied.
  - 10. Denied.

WHEREFORE, answering defendant Dalia Ship Holding S.A., appearing *in personam* demands judgment in its favor and against Plaintiff Liberty Woods International, Inc., along with the dismissal of Plaintiff's Complaint with prejudice at Plaintiff's cost and such other and further relief as this Honorable Court may deem proper and just under the circumstances.

WHEREFORE, answering defendant Dalia Ship Holding S.A., appearing as owner of the M/V OCEAN QUARTZ and subject to its restricted appearance and Verified Statement of Right

or Interest filed of record herein, demands judgment in its favor and against Plaintiff Liberty Woods International, Inc., along with the dismissal of Plaintiff's Complaint with prejudice at Plaintiff's cost and such other and further relief as this Honorable Court may deem proper and just under the circumstances.

#### FIRST AFFIRMATIVE DEFENSE

Any claim for or arising out of the loss or damage alleged in the Complaint is subject to the mandatory jurisdiction / forum selection clause set forth in Clause 33 of all bills of lading referenced in Schedule "A" attached to Plaintiff's Complaint. This lawsuit must be dismissed based on, *inter alia*, the doctrine of *forum non conveniens* pursuant to the mandatory and exclusive jurisdiction Clause 33 contained in the bills of lading which are the subject of Plaintiff's Complaint which states in pertinent part as follows:

"33. (Jurisdiction): Any claim, dispute, suit, or action concerning goods carried under this Bill of Lading, whether based upon breach of contract, tort, or otherwise shall be brought before the Seoul District Court in Korea."

A copy of the terms and conditions set forth the back of the subject Bills of Lading is attached hereto as composite <u>Exhibit "A"</u>. An enlargement of Clause 33 is attached as <u>Exhibit "B."</u>

#### SECOND AFFIRMATIVE DEFENSE

The Complaint fails to state a claim against Answering Defendants for which relief can be granted.

#### THIRD AFFIRMATIVE DEFENSE

Defendants claim benefit of all rights, limitations, and defenses provided by the United States Carriage of Goods by Sea Act of 1936, 46 U.S.C. § 1300 et seq., (46 U.S.C.S. §30701 et seq.) the Harter Act of 1893, 46 U.S.C. § 190 et seq. (46 U.S.C.S. §30701 et seq.), the Limitation of Liability Act of 1851 (46 U.S.C. §§ 30501 - 30512), the Hague Rules 1924 (Brussels

Convention) (Articles 1 through 8 et seq.), and any other international convention referenced in the bill of lading and/or applicable as a matter of law to the subject shipments, all of which are incorporated herein by reference.

#### FOURTH AFFIRMATIVE DEFENSE

The damages alleged in Complaint, if they occurred, which is denied, were caused in whole or in part by acts, errors, omissions, negligence, breach of warranty or breach of contract of other parties for whom Answering Defendants are not responsible including, but not limited to the Plaintiff, the shippers, the consignees, and/or their respective agents, servants or employees.

#### FIFTH AFFIRMATIVE DEFENSE

Due diligence was used to make the M/V OCEAN QUARTZ seaworthy and to insure that it was properly manned, equipped, and supplied and to make the holds, decks and all other parts of the vessel in which the cargo was carried safe and fit for the cargo's reception, carriage, and preservation in accordance with all applicable contracts and statutes. Accordingly, if the cargo sustained any loss or damage while on board the vessel due to any unseaworthiness of the vessel, which is denied, Defendants can have no liability for such loss or damage.

#### SIXTH AFFIRMATIVE DEFENSE

Any liability of Answering Defendants, such liability being specifically denied, is limited by the United States Carriage of Goods by Sea Act of 1936, 46 U.S.C. § 1300 *et seq.*, (46 U.S.C.S. §30701 et seq.) to \$500 per package or customary freight unit and/or by the per package or customary freight unit limitation provision contained in any other applicable law or international convention.

#### SEVENTH AFFIRMATIVE DEFENSE

Answering Defendants claim the benefit of all defenses which may be available to them under the terms of bill of lading numbers SKSMTMCA00211000 through SKSMTMCA00229000, SKSMBICA00615000 through SKSMBICA 00630000, and SKSMSMCA00109000 through SKSMSMCA00154000, and any other applicable contracts, charter parties, bills of lading, or other agreements or tariffs, including, but not limited to, time bars, failure to give proper notice, forum selection clauses, jurisdiction clauses, arbitration clauses, applicable law clauses, and any other applicable defenses. Specifically, Defendants incorporate by reference all defenses set forth in terms and conditions set forth on the front and reverse sides of the applicable bills of lading referenced in the LOU issued on May 10, 2013 and attached to the Verified Statement of Claim.

#### EIGHTH AFFIRMATIVE DEFENSE

Plaintiff has failed to mitigate its alleged damages and losses in this matter.

#### NINTH AFFIRMATIVE DEFENSE

The subject vessel, the M/V OCEAN QUARTZ was, at all material times, tight, staunch, strong and seaworthy.

## <u>TENTH AFFIRMATIVE DEFENSE</u>

Answering Defendants did not owe Plaintiff any duty or warranty under the law or pursuant to the contract of carriage or otherwise and did not breach any duty or warranty.

#### ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the applicable statutes of limitations, including, but not limited to, limitation periods in the applicable Bills of Lading and in United States Carriage of Goods by Sea Act of 1936, 46 U.S.C. § 1300 *et seq.*, (46 U.S.C.S. §30701 et seq.).

## TWELFTH AFFIRMATIVE DEFENSE

The cargo which is the subject matter of the Complaint was allegedly received, loaded and carried pursuant to the terms and conditions of the Bills of Lading issued by SK Shipping Co., Ltd. and Answering Defendants incorporate herein by reference all terms and provisions of the aforementioned Bills of Lading, the terms and provisions of any contracts incorporated by reference in said Bills of Lading and/or any other contracts applicable to the shipment, and specifically including, but not limited to, all defenses, limitations, notice provisions, United States Carriage of Goods by Sea Act defenses and limitations, package limitations, liberties clauses, etc. contained in said contracts.

#### THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff may not be the real party in interest and/or lacks standing to sue in respect of the claims asserted in this action and, therefore, the Complaint must be dismissed.

#### FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiff assumed the risk of any alleged damages or losses.

#### FIFTEENTH AFFIRMA<u>TIVE DEFENSE</u>

Plaintiff's claims are also barred by the equitable doctrines of latches, estoppel and waiver, unclean hands, and/or other equitable defenses.

#### SIXTEENTH AFFIRMATIVE DEFENSE

The Complaint should be dismissed on the grounds that Plaintiff has failed to join an indispensable party under Rule 19 of the Federal Rules of Civil Procedure.

## <u>SEVENTEENTH AFFIRMATIVE DEFENSE</u>

Recovery is barred to the extent that any loss or damage alleged in the Complaint arose or resulted from perils, dangers, and accidents of the sea or other navigable waters; or from acts of God; or from any reasonable and/or agreed deviation.

#### EIGHTEENTH AFFIRMATIVE DEFENSE

Any loss or damage alleged in the Complaint, said loss or damage being denied, did not arise or result from any actual fault, knowledge, privity, or neglect of the carrier, its agents, or servants, and recovery is therefore barred.

## NINETEENTH AFFIRMATIVE DEFENSE

Plaintiff's alleged losses were caused by the negligent and/or intentional conduct of Plaintiff, Plaintiff's contractors, the shippers, the shippers' contractors, consignees, consignees' contractors, receivers, receivers' contractors, and/or other persons for whom Defendants have no responsibility.

#### TWENTIETH AFFIRMATIVE DEFENSE

If any loss or damage to the cargo, as alleged in the Complaint, occurred while the cargo was on board the M/V OCEAN QUARTZ, which is denied, and if it be determined that the loss or damage arose or resulted from a latent defect in said vessel or its equipment, Defendants cannot be held liable for such loss or damage.

#### TWENTY-FIRST AFFIRMATIVE DEFENSE

If any loss or damage to the cargo, as alleged in the Complaint, occurred while the cargo was on board the M/V OCEAN QUARTZ, which is denied, and if it be held that the loss or damage arose or resulted from an act, neglect, or default of the Master, mariner, pilots, or

servants of the carrier in the navigation or management of the vessel, which is denied,

Defendants cannot have any liability for such loss or damage.

#### TWENTY-SECOND AFFIRMATIVE DEFENSE

In the event there is any loss of damage to the cargo as alleged in the Complaint, which is denied, such loss or damage arose or resulted from the condition of the cargo when delivered or from an inherent defect, quality or vice of the goods or insufficiency of packaging, insufficient protection, or by act or omission of the shipper, consignee, or owners of the goods, their agents or representatives, including but not limited to, acts or omissions of the shipper's representative at the location where the cargo was loaded, and acts or omissions at the ports of loading and/or discharge and, therefore, Defendants have no liability in this matter.

#### TWENTY-THIRD AFFIRMATIVE DEFENSE

If there was any loss or damage to the cargo as alleged in the Complaint, which is denied, such loss or damage arose or resulted from Plaintiff's failure to use due care under the circumstances in shipping its cargo, including, but not limited to, negligent storage, handling, carriage, and transportation of the cargo prior to shipment aboard the M/V OCEAN QUARTZ, and negligently failing to provide proper and/or adequate carriage instructions and, therefore, Defendants are not liable.

#### TWENTY-FOURTH AFFIRMATIVE DEFENSE

If there was any loss or damage to the cargo as alleged in the Complaint, which is denied, such loss or damage arose or resulted from the negligent packing, packaging, stuffing, and/or protection of the cargo for the anticipated voyage by Plaintiff, shippers, consignees and/or receivers and/or their respective agents.

#### TWENTY-FIFTH AFFIRMATIVE DEFENSE

To the extent that the claims stated in the Complaint are governed by the substantive laws of a foreign nation, Defendant hereby gives notice of its intention to rely on foreign law.

#### TWENTY-SIXTH AFFIRMATIVE DEFENSE

Notice of the alleged damage to cargo was not given within three (3) days after discharge and, therefore, under the Carriage of Goods by Sea Act of 1936, 46 U.S.C. § 1300 *et seq.*, (46 U.S.C.S. §30701 et seq.) and/or other applicable laws, it must be presumed that no damage occurred during carriage.

## TWENTY-SEVENTH AFFIRMATIVE DEFENSE

At all times material hereto, Defendants acted with reasonable care, did not breach any duty, and complied with all carriage and stowage instructions provided by Plaintiff, the shippers consignees and/or receivers and/or their respective agents.

## TWENTY-EIGHTH AFFIRMATIVE DEFENSE

If there was any loss or damage to the cargo as alleged in the Complaint, which is denied, such loss or damage arose or resulted from the negligence of the Plaintiff, shippers, consignees and/or receivers and their respective agents.

## TWENTY-NINTH AFFIRMATIVE DEFENSE

At all material times Defendant Dalia Ship Holding S.A. was not a party to any alleged contract of carriage, was never in privity of contract with Plaintiff, and did not operate or control the subject vessel.

### THIRTIETH AFFIRMATIVE DEFENSE

This lawsuit must be dismissed pursuant to the mandatory/exclusive law and jurisdiction and/or exclusive arbitration clause(s) contained in any applicable bills of lading, tariffs, charter parties, service contracts and or other applicable contracts of carriage.

## THIRTY-FIRST AFFIRMATIVE DEFENSE

This Honorable Court lacks *in personam* jurisdiction over Defendant Dalia Ship Holding S.A. and, therefore, the *in personam* claim in the Complaint must be dismissed.

## <u>THIRTY-SECOND AFFIRMATIVE DEFENSE</u>

Venue is improper and, therefore, this matter must be dismissed.

## <u>THIRTY-THIRD AFFIRMATIVE DEFENSE</u>

Plaintiff failed to timely file its action in the Seoul District Court, Korea, as required under the applicable forum selection / jurisdiction clause and therefore Plaintiff's claim is time-barred under the applicable statute of limitations.

#### THIRTY-FOURTH AFFIRMATIVE DEFENSE

The Complaint is barred, in whole or in part, by the doctrines of contributory and/or comparative negligence.

## <u>THIRTY-FIFTH AFFIRMATIVE DEFENSE</u>

Answering defendant claims benefit of all defenses and limitations available to it pursuant to all applicable Himalaya clauses contained in bills of lading or other contracts deemed applicable to the transportation of the subject cargo.

## THIRTY-SIXTH AFFIRMATIVE DEFENSE

This lawsuit should be dismissed on the basis of the doctrine of *forum non conveniens* because the applicable bills of lading contain a mandatory jurisdiction / forum selection clause requiring that all claims, suits or actions be brought in the Seoul District Court, Korea.

## THIRTY-SEVENTH AFFIRMATIVE DEFENSE

At all times material hereto Defendant Dalia Ship Holding S.A. was not a carrier of the cargo which is the subject matter of the Complaint.

## THIRTY-EIGHTH AFFIRMATIVE DEFENSE

Defendants did not owe Plaintiff any duty or warranty under the law or pursuant to contract and did not breach any contractual or legal duty or warranty.

## THIRTY-NINTH AFFIRMATIVE DEFENSE

There is an absence of privity of contract between the vessel *in rem* and Plaintiff and therefore, the Complaint should be dismissed.

# FORTIETH AFFIRMATIVE DEFENSE

There is no actual knowledge, privity, and/or fault of Defendants and, therefore, this action must be dismissed.

# FORTY-FIRST AFFIRMATIVE DEFENSE

Defendants reserve their right to add those defenses which they deem necessary to their defense during or upon the conclusion of investigation and discovery.

WHEREFORE, answering defendant Dalia Ship Holding S.A., appearing in personam demands judgment in its favor and against Plaintiff Liberty Woods International, Inc., along with

the dismissal of Plaintiff's Complaint with prejudice at Plaintiff's cost and such other and further relief as this Honorable Court may deem proper and just under the circumstances.

WHEREFORE, answering defendant Dalia Ship Holding S.A., appearing as owner of the M/V OCEAN QUARTZ and subject to its restricted appearance and Verified Statement of Right or Interest filed of record herein, demands judgment in its favor and against Plaintiff Liberty Woods International, Inc., along with the dismissal of Plaintiff's Complaint with prejudice at Plaintiff's cost and such other and further relief as this Honorable Court may deem proper and just under the circumstances.

#### PALMER BIEZUP & HENDERSON LLP

By: /s/ Charles P. Neely, Esquire
Charles P. Neely
330 Market Street
Camden, NJ 08102
cneely@pbh.com
856-428-7717

Attorneys for Dalia Ship Holding S.A. As Claimant of Defendant Vessel M/V OCEAN QUARTZ, *in rem* 

## Of Counsel:

Richard Q. Whelan
Palmer Biezup & Henderson LLP
190 N. Independence Mall West, Suite 401
Philadelphia, PA 19106
215-625-7806
rwhelan@pbh.com
Attorneys for Dalia Ship Holding S.A.
As Claimant of Defendant Vessel
M/V OCEAN QUARTZ, in rem

Dated: February 12, 2016

#### **ATTORNEYS' VERIFICATION**

Charles P. Neely, Esq., being duly sworn, deposes and says:

- 1. I am an associate in the law firm of Palmer, Biezup & Henderson LLP, counsel for claimant Dalia Ship Holding S.A., the registered owner of the M/V OCEAN QUARTZ;
  - 2. I am authorized to make this Verification on behalf of Dalia Ship Holding S.A.;
- 3. I have read the attached Answer to Complaint and know the contents thereof, and the same are true and correct based upon my investigation and the information and documents provided to me by or on behalf of Dalia Ship Holding S.A.;
- 4. Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.
  - 5. Executed this 12<sup>th</sup> day of February, 2016.

/s/ Charles P. Neely Charles P. Neely

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 12<sup>th</sup> day of February, 2016, a true and correct copy of the foregoing Verified Answer to Complaint was filed through the CM/ECF system and served by email on the following counsel of record:

Craig S. English, Esquire Kennedy Lillis Schmidt & English 75 Maiden Lane, Suite 402 New York, New York 10038 cenglish@klselaw.com

> By: /s/ Charles P. Neely Charles P. Neely

and any effect of tree has at Labarity to repurphent to its region to the criticism strong amounts yet on complet with the terral of make, and registations then such term shall be a married but only to the criticism extent amounts yet on complet with the terral of make from ratio (Representative). The Corner or its argent death not be inche for jors or damage arises. If the goods make the Ship is read during loading, and after the pools have the Ship is deck at the dischanging post, however each have extended the Ship is read during loading, and after the pools have the Ship is deck at the dischanging post, however each more defining a married and in the control or its argent of the dischanging post, however each pools may be they are in not causingly of the acid risk of the Merchant and the Carrier shall not be flable for any loss or thorough arising from any consess whateaver.

(The Stope of Voyage): This control of the horse service, and the voyage undertaken that, at the Carrier's option include the usual or assumes or advatord poets of an America fording popular or gains wherever, complete the proofs from one of married and the popular of the control of the popular of the popular of the control of the popular of amounts support companies any success to use super as an expanity success interpretable support or security that one of the contract of the co

vested at mental or moving at conveyance employed by an indirect wite fight to give such circles or directors. Anything which a data or may drive united therefore, shall be described to be explained the second in the explained of the end of the character of the goods whitehoree. Described may at more time, and without notice to the Merchantershopping or complying the goods on smoothy vested other than the vested identified better or consequence to another, tricking transforging or complying the goods on morbor yeard other than the vested identified better or can may other means of transport unhalded the control through transforging the goods of the control transport produced to the control unhalded transporting the goods, then Carrier may provoed either directly or indentedy to the designated port of discharge or the final destination, and comply the goods of parts of two beyond the designated port of discharge or the final destination, and comply the goods of parts of the beyond the designated port of discharge or the final destination, which is not the port of discharge or the final destination, and only the goods of the goods, them the Carrier as a formating apost order for the Merchant. The responsibility of the Carrier shall be furnish to the part of transport performed by the Carrier on vestels under the Cerrier is management, and the Carrier than the product of transport performed to grow other parts of transport performed to the Carrier of the goods and the Carrier of the carrier and other transport has been cognitive for through the freight for the ender transport has been conferred by the Carrier.

5. (Discharge and Delivery): The Carrier at an option, may choose to deliver the goods from the trips in an order or the goods are discharged from the yours and the Merchant or its agent or representative is given notice of the discharge of the goods are discharged from the yours and the Merchant or its agent or representative is given notice of the discharge of the goods are discharged from the vest of the shall only all rights and immunities as we forth herein lock-the thore rights and humanistics we forther Clauses 2.8 II. 24 and II branch. Demotrage or detention of the ship. II. created by the Merchant's post taking believing in the goods can be discharged, in to be post by the Merchant at the them applicable charger their rate. When the posts are received to taken by customs or other surfaceable on the properties of the properties of any lighter, dock wereficiate, devotor, or other ficility, whether added by the Carrier, the Merchant or otherwise, and whether public or private such sufficient or operation and the conference is howing received postsession and to not have taken of white you do not not be a properties of the proofs and subject to any tiem of the Carrier thereps. Unless the Marchan's tally cleaks check the forces in recoverables with the procession of the third private of the proofs and the procession of the Merchan's tally cleaks check the forces in recoverables with the procession. The Master and the Carrier that have the library to comply

check the goods in coordation with the ship's checkers the ship a checkers court and table the data have the themy to comply with any order or directions or magnetisms. In strike, Each: (1) The Manne and the Carrie and the two the themy to comply on any body acting or partporing to set on behalf of such government or authority or having under the terms of the insurance on the sease the right to five than orders or therefore or promparisations. (2) Sexual it appears that the confage of the goods would capse the vessel or any pooks onboard to the of software or damage or dray reading from war, washin confidence would capse the Vessel or any pooks onboard to the of software or damage or dray reading from war, washin confidence which the limited may discharge the cargo at the port of loading or any other ports as considered to the next of the for for formation or that may strike the land or convenient by the Master or the Carrier, (3) Should in appear that epidemics, qualitatine, capstantine, carsonal, immigration, chains an extra transfer of the Carrier, (3) Should in appear that epidemics, qualitatine, capstantine, carsonal, immigration, chains of control of the carrier or control, whether endough a comparison proved the vessel from known the port of loading or any other ports as considered whether, or any other ports as considered whether, or any other ports as considered with the port of loading or control, whether endough a comparison to the port of loading or control, whether endough a comparison to the control of the vessel than the control of the control of the vessel to the port of loading or any above port to considered sale or convenients the Master may dishware the goods of the port of loading or any above port to considered sale or convenients the Master may dishware the goods of the port of loading or any above port of the port of loading or any above ports of the port of loading has been asset of the loading ports of the port of loading has been asset of the loading the ports of the port of loading h with any order or directions or appropriations in consuction with the currents of the goods given by any government or authority

transmit quest the content two team expectations are too given to by an extensive the pay of the pay the completed at most at appealment.

It (Heavy Late) have single place or parkage expecting one ton given weight shall be failly to pay of our drops in exceptions what it notes in parkage shall be before in parkage place of parkages are drops at the team of the team of a collection of the parkages of the team of the pay of the district of the parkages are the considered in parkage by the Marchant to force or produce and the team of the district of the Marchant and also be faith for and shall informatly the Carrier in respect of any years, has decrease one or express desire districtly to indirectly found the Marchant is fedure to declare and inputs the two weight of any years, has decreased to be considered to indirectly found that the declared is fedure to declare and inputs the two weight of any years, has decreased becomes found of marchant of marchant or marchant for other decreases. 4 (Valuelie Geole). The Carier shall not be accountable for pold, silver, corners), documents, registrable stronger, space production and stronger and accountable for pold, silver corners, described and accountable for policy of all on one obtained and stronger and accountable for the corners and accountable for the corner and acc

SHIPPED on board the Ship named howeln by the object berein named the goods or pockages sold to contain goods hereinafter described in appearant good order and condition unless otherwise Indianced on this Bill of Lading, to be transported from the port of loading or place of prospect with the body or an activity yet and leaves, always affect at all its stages and content in the liberty to proceed via any route or parts within the stopes of the voyage, to the part of discharge are object. The Owner of the goods included from the horizon designated oran vessel or which the pools are discharged to the part of discharge where by we yet described stepper. The constitutes dispert the owner of the pools in the Bill of Lading at the horizon and the matter of the yeard without the vessel Wingreet the sum. Marchant is used in this Bill of Lading at the better of the goods of the provision of the part of the provision of the part of the part of the provision of the part of the part of the provision of the part of the p

indication, windows, down an any liker condition thereto historicons are countring during the notating of the Countrie Cili in the case of the most force staged, have, framed the temperature of the country of the cou

27. Sourcector of that of Lating. I in required by the Jurian can be compared to the profit about the profit of the report of the profit.
28. (Contract Average): (1) General average is to be migrated at my part of place as the Cortic's option to be settled according to the Vork Antewor Robert [20]. (1) General average is to be migrated at my part of place as the Cortic approved by BMCO to be considered as accorporated between [21]. Such according including a cosh deposit as the Cortics may deem sufficient to cover the estimated contribution of the goods and any valvage and appeal changes thereon shall. If required, he submitted not be considered as not delivery of the goods.

recome seminant to cover the cammittee communication of the goods, and any analogo and special epidem (nervon annu.) of required, he substituted to the Carrier perior to delivery of the goods.

2. (Bodyte Blump collision shares): The Bodytu Hanne cultistin clause in adopted by BH4CO to be considered interpreted burding.

3. (For ZHO Saley Protocallit, is agood that You ZHO Saley Protocal Card 14th three 1998) another with the Cards of Good Practice considered in he IMO County Letter via Saley Cald that 6 5th March 1998, shall be interested rate and that carry practices implemented in accordance thereofold shall not be completed a breach of this most practice and that any practices implemented in accordance to reduce the contract core form the best of any claim intert and shall be descreted than in a good laids in and in the excesses of the collegens.

2. (Identitive of Carrier): The contract restricted by the BM of Lading in browner the Meritann and the course manifer managing on other than the contract for any damage or more of the recover formed better for admissible and in the contract of the contr

the comply with the terms of that Arc.

At (Associations): Any dams, dispute such or sociat communing fronts current tender this field of Leating, whether beard upon breach of common, text or otherwise that be brought before the Scott District Court in Konou.



ds whatsoever, transfer the goods from one conveyance to another, including il other than the vessel identified herein or on any other means of transport ng of the goods may not hope som ton the goods may not hope some the goods may not hope some the goods of the ner directly or indirectly to the designated port of discharge or the final yond the designated port of discharge or the final destination. If the Carrier ination, which is not the port of discharge of the goods, then the Carrier acts onsibility of the Carrier shall be limited to the part of transport performed by ent, and the Carrier shall not be responsible for damage or loss arising during for the entire transport has been collected by the Carrier.

ition, may choose to deliver the goods from the ship's rail or from craft, hulk, ses at the risk of the Merchant and all expenses incurred by delivery other . Unless otherwise stated by the Carrier delivery shall occur when the goods or its agent or representative is given notice of the discharge of the goods. goods at the time they are discharged from the vessel or within such minimum t where the cargo is discharged, the Carrier shall have the righ to land craft, or to any other suitable place, at the risk and expense of the Merchant made the Carrier's responsibility for the goods shall cease. In the event goods are discharged from the vessel then until such delivery occurs the Carroer including those rights and immunities set forthe Clauses 2, 8, 14, 24 and 31 herein. y the Merchant's not taking delivery as the goods can be discharged, able charter hire rate. When the goods are received or taken by customs iter, dock, warehouse, elevator, or other facility, whether selected, by the public or private, such authorty or operator shall be considered as having the goods solely as agent and on behalf of the Merchant, at the risk · lien of the Corrier thereon. Unless the Merchan's tally clerks s checkers the ship's checkers' count and tally shall be conclusive.

ikes, Etc.): (1) The Master and the Carrier shall have the liberty to comply onnection with the carriage of the goods given by any government or authority if such government or authority or having under the terms of the insurance ons or recommendations. (2) Should it appear that the carriage of the goods risk of seizure or damage or delay resulting from war, warlike conditions rson onboard to the risk of loss of life or freedom, or that any such risk has rgo at the port of loading or any other ports as considered safe 3) Should it appear that epidemics, quarantine, customs, immigration, or disputes, dusputes among governments, or any consequences arising er's control, whether onboard or ashore, may prevent the vessel from leaving ort of discharge, or any intermediate port, and leaving such ports again in r carrying out other operations in the usual manner the Master may ther port as considered safe or convenient by the Master or the Carrier with hant (4) The discharge under the provisions of this clause of any goods all be deemed due fulfillment of the contract. If in connection with the extra expenses are incurred, they shall be paid by the Merchant in any extra services are rendered to the goods. (5) In the event of any delay or provided in this clause, demurrage is payable at the rate of US \$ 1.00 per ortion of the day, the total demurrage being allocated pro rata to all goods ges. (6) If any situation referred to in this clause may be anticipated ly and without delay reach or enter the loading port or must undergo he Bill of Lading is issued. (7) The Merchant shall be informed if possible r, managing owner, nor their agents shall be liable for loss or damage resulting he sea or other navigable waters, fire, from any cause wheresoever occurring: the servants of the Carrier in the nevigation or in the management of the ship: int of princes, rulers, or people, or seizure under legal process: quarantine gents or representatives: strikes or lockouts or stoppage or restraint of labor its and civil commotions: saving or attempting to save life or property at damage arising from inherent defect, quality, or vice of the goods: insufficiency it defects not discoverable by due diligence; and any other cause arising without ity of seaworthiness in the premises being hereby waived by the Merchant. The ontents of goods shipped in bags or in used, old, or second hand containers. The urticular time or to meet any particular market or for any particular use. ading or ports of discharge to be for the risk and account of the Merchant. under deck in poop, forecastle, deckhouse, shelter deck, passenger space or in tice to the Merchant and when so stowed, shall be deemed for all purposes

general average c.) Goods carried on deck, and stated herein to be so carried, livestock, fruit, kery or castings, or any articles of a fragile nature, or goods in bales or crates of the Merchant, and the Carrier shall be under no liability for any loss or of the negligence of the Carrier, his servants, agents, contractors or independent I in this Bill of Lading shall also apply to livestock or to goods carried on deck ers, quality, contents and value if stated in this Bill of Lading are to be considered ledged and agreed to by the Carrier. The signing of this Bill of Lading is not to

g one ton gross weight shall be liable to pay extra charges in accordance with tariff thipping or discharging and the true weight of each such piece or package shall be I dearly and durably-marked on the outside of the piece or package. The Merchant respect of any injury, loss, damage, cost or expense arising directly or indirectly from weight of any such piece or parckage having been declared or marked thereon. runtable for gold, silver, currency, documents, negotiable writings, specie, jewelry, and works of art or any valuable of any kind or amount whateover unless

plus (b) as liquidated and ascertained damages, a sum equal to the correct freight, (2) Full freight to the port of discharge and/or destination named herein shall be considered as completely carned on receipt of the goods, whether the Behi Dittel printered to be espit of the charges due hereunder, whether actually paid or not, and to receive and retain them irrevocably under any circumstances whatsoever whether the vessel and/or the goods be lost or not, or the voyage be broken up or frustrated or abandoned at any stage of the carriage. Full freight shall be paid on damaged or unsound goods. (3) The payment of freight and/or charges shall be made in full and in cash without any offset, counterclaim or deduction. Where freight is payable is payable at the port of discharge, destination or any other place, such freight and all other charges shall be paid in the currency named in this Bill of Lading, or at the Carrier's option in other currency subject to the regulations of the freight conference concerned or custom at the place of payment. (4) The Merchant shall be liable for, and shall indemnify the Corrier against all dues, duties, taxes and charges including consular fees, and furnigation expenses levied on the goods, or all fines and/or loss sustained or incurred by the Carrier in connection with the goods howspover caused, including the Merchant's failure to comply withe laws and regulations of any government or public authorities. The Merchant shall be liable for return freight and charges on the goods if refused exportation or importation by any government or public authority, if the Carrier is of the opinion that the goods stand in need of sorting, inspecting, mending or repairing or reconditioning or otherwise require protecting or caring for, the Carrier may carry out such work at the cost and expense of the Merchant. (5) The shipper, consignor, consignee, owner or receiver of the goods and holder of this bill of lading shall be jointly and severally liable to the Carrier for the payment of all freight and charges and for the performance of the obligation ot each of them hereunder.

21. (Lien): The Carrier shall have a lien upon the goods for freight, dead freight, demurrage or loss caused by detention, average contribution, salvage, and for all payments made and liabilities incurred in respect of any charges or expenditures stipulated herein to be borne by the Merchant: the Carrier may enforce such lien by public or private sale with or without notice or by legal

proceedings, the cost of such enforcement being for the account of the Merchant

(Obstruction of Route): The Carrier shall not be liable for loss, damage or delay caused by any obstruction of the Sucz Canal or Panama Canal, or any other canal, narrows, seaway, river, bay channel or any portion of the route of the vessel, or the non-operation or closing of the same: and in the event of such obstruction of or closing, the Carrier shall have the option to stop or delay the ship, awaiting the removal of such obstruction, or to reship, transship or forward all or any part of the goods by rail or any other conveyance, and all storage charges in connection therewith and extra freight shall be for the account of the Merchant and the Carrier shall have a lien upon the goods for any such charges., Further, the ship may sail via any other route whatsoever, additional freight therefor being paid by the Merchant.

23. (Indirect Damage Delay and Misdelivery: Time Bar): (1) The Carrier shall in no discurratances be responsible for indirect or consequential loss or damage caused through misdelivery, delay or physical loss or damage to the goods. (2) In the event of liability for delivery to the wrong person the same time limitation of one year as is provided for in Article III, 6 and 6

bis of the Hague Visby Rules shell apply.

24 (Limit of Liability): The Carrier shell in no event be or become liable for any loss of or damage to the goods in an amount exceeding one hundred Pounds Sterling (UK£100.) and/or five hundred U. S. Dollars (US \$ 500), or whichever is less, per package or unit, unless the value of the goods higher than this amount is declared in writing by the Merchant before shipment and the nature and the value thereof inserted in the Bill of Lading and extra freight is paid as agreed upon. In such case, even if the value of the goods as measured per package or unit or otherwise exceeds such declared value, as the value shall nevertheless be deemed to be the declared value. The Carrier's liability shall not exceed such agreed or declared value, as the case may be, and any partial loss or damage shall be adjusted pro rata on the basis of such declared value. The limitation of liability and other provisions contained in this paragrph shall inure not only to the benefit of the Carrier, but also to the benefit of any servant, agent, contractor or independent contractor performing services including stevedoring in connection with the goods covered by this Bill of Lading.

25. (Defences and Limit for the Carrier.): The defences and limit of liability provided for in this Bill of Lading shall apply in any action against the Carier for loss or damage to the goods whether the action be founded in contract or in tort.

26. (Defences and Limits for Servants, etc.): If an action for loss or damage to the goods is brought against a servant, agent, contractor or independent contractor of the Carrier, such person shall be entitled to avail himself of the defences and limits of liability which the Carrier is entitled to invoke under this contract and the laws referred to herein. The aggregate of the amounts recoverable from the Carrier and his servants, agents, contractors, or independent contractors shall in no case exceed the limits provided for in this document.

27. (Surrender of Bill of Lading.) : If required by the Carrier, his servants and/or agents, this Bill of Lading duly endorsed

shall be surrendered in exchange for the release of the goods.

28. (General Average): (1) General average is to be adjusted at any port or place at the Carrier's option to be settled according to the York Antwerp Rules 1994 this covering all goods, whether carried on or under deck. The Amended jason Clause, as approved by BIMCO to be considered as incorporated herein. (2) Such security including a cash deposit as the Carrier may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be submitted to the Carrier prior to delivery of the goods.

(Both-to Blame collision clause): The Both-to Blame collision clause as adopted by BIMCO to be considered incorporated berein. 30. (Yest 2000 Safety Protocol) It is agreed that Year 2000 Safety Protocol (dated 14th June 1999) together with the Code of Good Practice contained in the IMO Circular Letter No. 2121 dated 5th March 1999, shall be incorporated into this contract and that any practices implemented in accordance therewith shall not be considered a breach of this contract nor form the basis of any claim

in tort and shall be deemed taken in good faith and in the exercise of due diligence.

31. (Identity of Carrier). The contract evidenced by this Bill of Lading is between the Merchant and the owner and/or managing owner of the vessel named herein (or substitute) and it is therefore agreed that said owner only shall be liable for any damage ro loss due to any breach or (conperformance of any obligation arising out of the contract of carriage whether or not relating to the vessel's seaworthines: If despite the foregoing, it is adjudged that any other is the Carrier and/or balke of the goods shipped heraunder, all limitations of and exonerations from liability provided for by law or by this Bill of Lading shall be available to such other. It is further understood and agreed that if the line, company or agent who has executed this Bill of Lading for and on behalf of the master is not a principal in the transaction said line, company or agent shall not be under any liability arising out of the contract of carriage, not as carrier nor as bailee of the goods.

32. (Applicable law): This Bill of Lading shall have effect subject to the provisions of the Carriage of Goods by Sea Act of the United States approved April 16, 1936. The Carrier and its agent and subcontractors, shall be entitled to all of the rights and immunities set forth in that Act, and to the extent that any term of this Bill of Lading is repugnant to, or inconsistent therewith, and such inconsistency is not permitted by that Act, then such term shall be amended, but only to the minimum extent necessary

to comply with the terms of that Act.

33. (Jurisdicthion): Any claim, dispute, suit or action concerning goods carried under this Bill of Leding, whether based upon breach of contract, tort, or otherwise shall be brought before the Seoul District Court in Korea.

